

U.S. SMALL BUSINESS ADMINISTRATION

Regulatory Enforcement Fairness Hearing

Milwaukee, WI

July 10, 2007

PROCEEDINGS

[START TAPE 1]

MR. LUPE MARTINEZ: Of course this is the second largest job center in the state and that's up 29th in Capital. So we are very involved in work for Stella and Development. But getting back to the point, I just wanted to welcome you here. If there is anything we can do to help you out, I know Angie is here, just wave your hand and you can let Angie know if you have any other needs. I am going to be moving on to yet another meeting across the hall. So, welcome again and thank you very much.

MR. ERIC NESS: Well, we really want to thank Lupe Martinez and UMOS for hosting this. Because this is a beautiful facility and we are really happy to be here. I want to just mention, my name is Eric Ness, and I am the District Director of the Small Business Administration. I just want to mention a few of my employees who have been working on this. What happened is we were putting this big event together and I went on vacation. So they did all the leg work on this, so I really appreciate all that they did. So I'm just going to mention them. I want to mention them and have them stand so you know who they are and if you are having any questions about SBA you can talk to them after this event. So Jim Simelton is in the back standing. Joe Rosner is up on the front. Gloria [unintelligible] is doing the registration as is Christina Austin. And then Jan Nienow who is taking the pictures, Jan actually coordinated this event, so I really appreciate it. And let's see who else, Julius Hulbert if over here and took charge when I was gone, so thank you.

The SBA of course, is heavily known for loans, small business administration does a lot of loans just in the state last we did about \$450 million. And that is really what a lot of people know us for, SBA loans. And we really do push our loan program. We have a lot of interesting programs. We have our 504 program for one, large fixed asset purchases and we have our 7A guarantee program. Really when I talk about SBA loans and programs, I'm really saying cash flow. SBA really helps in cash flow. We [unintelligible] amortization and for all small businesses when they start cash flow is the biggest issue that they are dealing with, as you are growing you need more money. And if you can amortize some of that debt at a longer rate you can really save a lot of cash flow. And for just an example, we have seen where some equipment is financed in three years and under an SBA program you can go up to 10 years, which really generates a lot of extra funds for a new business starting or growing.

One other thing that I wanted to mention is that SBA has just come out with a brand new program just last week month. We introduced it on Flag Day; it's called the Patriot Loan Program, Patriot

Express. And really it has taken what SBA had the express program and made it even better to purchase, veterans as reservists and their spouses. This is the only time that we have ever done a program for reservists and their spouses and even veterans and their spouses. It is typically just veterans. So we are really excited about the program, it actually goes up to a half a million dollars. We actually let the lenders make their own credit decisions and we give them the maximum guarantee. So it is a wonderful program and if you want more information on it, I just left -- when I left the office today, we had signed up ten lenders who are in the state who are doing the Express Program and we are working on having even more lenders take it on. I think it is a wonderful program. If you know veterans or reservists that are looking for funding, tell them about this and give our office a call. We have resource guides out on this table so if you want any information about the local SBA office just give us a call.

SBA also has a real contracting push too. We have worked really heavily with a program called our 8(a) contracting program which is actually a training program. A lot of people say, well this is a way to set aside contracts because you get a 10% price differential when you are competing a non-8(a) business. But really it is a training program that goes over nine years to help businesses grow and get federal contracts. And that is one of the goals that I have for this state. We need more federal dollars coming to this state. So that is an exciting program. And if you want more information on that let me know afterwards, we have information on that.

But, a lot of times when I talk to people they say well, SBA is just loans and sometimes they talk about contracting. But SBA is a lot more and I'm really happy to introduce one person that is here from Chicago, Ray Marchiori, he is our Regional Advocate and I'll let Ray describe what he does. [Non-related conversation] Ray, I'm going to turn it over to you.

MR. RAY MARCHIORI: Well, Eric, it is a pleasure to always receive those emails. [Non-related conversation]

It is a pleasure to be here today. As Eric was alluding to and I'm going to be very brief because this is really not my show today, it is the National Ombudsman, Nick Owens and it is always a pleasure to be here. This is the first opportunity I have had as Regional Advocate since I've been onboard with SBA to attend a hearing with Ombudsman and the board members. So I look forward to the opportunity and thank you for having me here today.

But as I was saying, what Eric was alluding to is that the SBA as most folks know, the money side or the dollar side or the lending side or the loan programs. But my office, office of advocacy focuses on the regulatory side along with working very closely with Nick's office in the Ombudsman office. But, we as Regional Advocate, I'm here locally

or within the region based in Chicago. My direct boss is Tom Sullivan, he is the Chief Counsel. He works very closely with the National Ombudsman, Nick Owens in Washington. And it is a true partnership and collaboration between our two offices. But the office of advocacy really focuses on the regulatory Flexibility Act that was passed and signed into law in 1980. And really to boil it down, we work with agencies at the federal level to make sure when a rule or a new rule or regulation is in the beginning stage of being proposed and written, that we are engaged in that process. And that the agencies or the departments are taking into account the impact that rule or regulation has on small business. We consider ourselves the watch dog within the federal government and our office is somewhat or is an independent entity within the agency, within SBA. We work also very closely with Eric and the folks here in the district office of SBA in Milwaukee. But we are considered an independent voice; my boss Tom Sullivan who is the Chief Counsel is appointed by the President and confirmed by the Senate, just as the administrator of the agency. And the reason I raise that is because what we are -- or when Tom goes before Congress and is asked before committees on the field his perspective, it is not cleared by OMB or the administrator's office. It is from a perspective from a true perspective on the small business interests. So, I am glad to be here today and participate in these types of events, because it really does make my job easier. Because my role as Regional Advocate is serving that person out on Main Street or locally for you all as a resource to be able to take some of your issues and some of the challenges that may be facing small business, or some of the policy issues that are out there and take those back to Washington. I am that direct link between small business community, by SBA Covenant Partners, the small business stakeholders such as the National Federation of Independent Businesses, the Chambers, and small businesses directly. So my role is to be that liaison and be that link and to be that resource for you all. So, I also have some material over there, please feel free to take the information and I would be happy to talk to anyone after the hearing. And I'm here to assist and look forward again in participating today. And thanks for having me here. Thank you.

MR. NESS: I wanted to mention that we really have some of our congressional offices represented and so what I'm going to do is name off some of the names of the office and the people representing, please stand so that we know who you are. And if we need to talk to you or can talk to you after the hearing you will be available. So, representing Senator Herb Cole's office is Katie Topinka and representing Russ Feingold's office is Hillary DeBlois. And then Congressman Paul Ryans, District 1, representing Paul Ryan's office is Susie Liston. And Glenn Moore District 4 is Sheila Peyton and representing Tom Petri's office, District 6 is Jon Turke. And representing Congressman Steve Kagen, District 8 is Nate Williams. So it is good to have these folks

here. This program really came from Congress and created the National Ombudsman. So it is nice to have them here. One of the things that is always important is when the federal government is working in an area they love to also work with our state partners. So we are very happy to have Carol Dunn here, she is the Wisconsin's Small Business [unintelligible]. Carol, could you come up and share a few words from the state's perspective?

MS. CAROL DUNN: Thank you. It's a pleasure to be here and meet the National Ombudsman. My role at the Department of Commerce is similar in nature to the National Ombudsman. I hear from small businesses when they have concerns regarding state regulations at the Department of Commerce, I work in the area of business development. I too have a brochure on the table that you can take and look at some of the regulatory reforms that I would be happy to let you know about. In 2004, we signed some sweeping legislation as far as regulatory reform goes. You have heard from Ray, discussing the regulatory Flexibility Act on the federal level there is the requirement for the analysis of how the federal rule impact business. And it is the same on the state level. Our regulatory reform [unintelligible] 204 created small business regulatory review board at the state level that is designed to keep agencies on track as they write the rules. They have a requirement to analyze the impact of the rules on small business. So the review board looks at new rules that are being proposed and this review board is made up of business owners, like yourself. We have six representatives appointed by our governor and they serve to oversee how state regulations are written. We also have a senate position and an assembly position that sit on the board and then eight representatives of our [unintelligible]. So I encourage you if you have any concerns regarding state regulations to take the brochure and also know that my position is there to help in any way and navigate the regulatory system amongst the [unintelligible] that we have. Once again thank you for [unintelligible].

MR. NESS: It's my pleasure to introduce Nick Owens. Nick is from Mississippi and what we have tried to do is get a hold of the weather and get up to 90 or 95 so he could feel it. But I'm going to read his bio, because I think it is very interesting. On March 28, 2006 President George W. Bush appointed Nick Owen as the fifth National Ombudsman for the Small Business Administration. He serves as the assistant administrator for regulatory fairness; regulatory reform is an intricate part of President Bush's small business agenda. The President believes that in addition to lower taxes on government contract, affordable high-quality healthcare and clear sensible regulations are essential for long-term success for American's 25 million small businesses. Owen's responsibility includes leading the national effort on behalf of the National Small Business to insure fairness and the enforcement of federal regulations and the initiative to diminish

disputes between small businesses and the federal regulatory agencies. The SBA office of National Ombudsmen was created by Congress in 1996 as part of the small business regulatory Enforcement Fairness Act. The National Ombudsmen office works closely with more than 35 federal regulatory agencies to resolve complaints about excessive enforcement of federal regulations brought to the attention of [unintelligible] Ombudsmen, during hearings and round tables held in cities like Milwaukee. Before joining the Bush Administration in 2001, Owen served as part of the Bush/Cheney 2000 presidential transition team having served 5 years as a specialist to the chairman and director of external affairs at the National Credit Union Administration. He understands first hand the regulatory challenges faced by small business. In this position he served as senior advisor to communication, congressional and regulatory policy matters. As a native of Mississippi, Owen began as a young entrepreneur in the media business, eventually leading him in 1996 to found Niccom [phonetic] Group a public affairs communication and government relations group. An ABC network affiliate featured Owen as the great Mississippian for the next generation. I think that is cool, he is a little embarrassed by it, but I think it is a cool thing. His clients include national healthcare companies, internet technology companies and financial institutions. In 2000, he was named vice president of sales and working for Nashville based Healthcare Technology Solutions Corporation. So I am very proud to introduce Nick Owens.

MR. NICK OWENS: Thank you very much, Eric. I certainly thank you for a warm introduction. And speaking of warmth [unintelligible], one to bring greetings from a true great Mississippian who loves and appreciates the great state of Wisconsin, Brett [unintelligible], you all know and appreciate I hope. And outside of that it is 105 in Washington today, so I'm very pleased to be here and I was pleased to have the folks on the line back in D.C. to understand the weather is a bit nicer. But, thank you all for being here. I want to thank you for taking the time in your busy schedules certainly value a good working relationship with the members of congress and with your staff. Certainly with the staff members who work closely with to focus issues of concern for small businesses. Carol, thank you for your leadership in this state for and small businesses and making sure that regulations are effective and not accepted.

Before I go on to my remarks, I want to defer to our board members, the distinguished regional regulatory fairness board members who are comprised of small business men and women across the country. There are ten regions, 50 member board and here we have more board members with us, one is actually from your hometown, but first I will defer to our chairman, Steve Becher to introduce others.

MR. STEVE BECHER: Okay. My name is Steve Becher I am a small business owner and I have been in business for about 25 years

[unintelligible]. And I have had my own ever since then. A couple of different things, everything from food service, I don't think you have that in Wisconsin, but at one point we had a service that served small business [unintelligible]. That was one of our concepts in Minnesota 30 years ago. Now, I own a company that publishes upscale additions for the new homeowner, The Resource Guide, that we have been publishing in the Twin Cities now for about the last six or seven years. When I first got to Minnesota the business climate for small business was poor, this was back in the 80's. We were just hoping that legislation would never meet, because every time they did there were more laws passed against small business, making it very difficult to actually operate and succeed. So I got involved initially with NFIB and worked at the state level and then as I realized a lot of the problems around the federal level and hear a lot of complaints from my fellow small businessmen, I got involved and went to the White House Conference in 1995. It was kind of the predecessor the passing and separation of this office. And at that point we had a lot of concerns about at the federal level. I'm happy to say that the last couple of years since I have been appointed as a chair, I do hear a number of complaints, but 99% of them are at the state level now. We have noted significant improvement responsiveness from the federal agencies improving fewer and fewer complaints that I am running into at the federal level. Now, obviously there still are some, the federal government is a large organization and you can never completely eliminate all of them. But from what I have seen in my experience, this board and this law have significantly helped and the agencies are much more responsive. So that is all I wanted to say and I wanted to welcome everybody hear. Khalid is our board member from Michigan and I wanted him to say a few comments too. Thank you.

MR. KHALID KARADSHEH: My name is Khalid [unintelligible]. I run a small business specializing in [unintelligible] and I welcome all who came here today [unintelligible], thank you very much. John.

MR. JOHN HILLER: My name is John Hiller and I am from Milwaukee, so I want to welcome everyone to our fine city and state. I am a small business owner as well; I have a real estate development company, operating mainly in the southeast, not this area. And in real estate we deal with all the local and state agencies. So I have a lot of experience dealing with different agencies and looking forward to hearing and testimony today and see what we can do to help small business people. I have been on the commission's board for about a year on the national board meeting and this is my first hearing, so I am looking forward to it. If there is anything that we can do to help you, a lot of you are here in the local area, I have a resource for you and feel free to contact me if you need any assistance or need to be put in touch with NET [phonetic] back at the intermediary so to speak. Thank you.

MR. BECHER: Okay, I think next on our agenda -- do you have some more comments. Great. Thanks, Nick.

MR. NICK OWENS: It seems if I would have asked Steve if I was to talk he would say about five minutes, so I may go a little longer than that. I counted four board members so we have three here, we have a vacancy, so certainly there is a nomination from the congressional office from small business we would certainly welcome their nomination. Again, thank you for the opportunity to be here, I travel the country and I'll say it is important to get out of the Washington beltway to listen, learn and better understand the concerns of small businesses. And I wanted to bring greetings from our boss, the administrator for the SBA who is a native of Wisconsin and he joined the agency last June. He has done a terrific job, he has focused on outcomes and making sure our customers, small businesses, are getting the results that they deserve from the SBA as an advocate for small business and also as a conduit for government contracts and other services. So we certainly want to bring greetings from Administrator Preston.

I could tell you as I've surveyed the current entrepreneurial and small business climate in our great country there has never been a more exciting time than being part of America's small businesses. And it is always a thrill for me to meet entrepreneurs and I regain substance by being on the road and meeting small business owners and taking that knowledge and that information back to Washington. The role that small businesses play in today's ever changing and dynamic market place is truly a remarkable speaks, it is remarkable to the spirit of entrepreneurship and what it means and what folks are doing everyday to create jobs in our economy. The State of America's 25 million small businesses are stronger than ever before, representing 99.7% of all businesses in the country. And it is because of the ingenuity of America's small business owners that jobs are being created and jobs are being created at this state where businesses are approximately 435,000, I believe, here in Wisconsin.

For me personally, I could tell you it is an honor to serve in the capacity when we focus on the gotcha attitude that sometimes is found within the federal government in the regulatory regime, the regulatory structure. President Bush has said many times that the role of government is not to create wealth, the role of government are to create an environment where the entrepreneurial spirit can flourish and raise capital and you can achieve the American Dream. But the policies of the President and this administration have focused on streamlining regulations, recognizing that you can't operate effectively in confusion and uncertainty that sometime is found in the regulatory environment. Even more so, when you are faced with unfair enforcement and the unfair acts of federal agencies. Issues that we address in the office of the National Ombudsman relate to excessive audits, investigations,

retaliations concerns. Can you tell your government both the good and the bad without fear of consequences that is an important issue? The burden of compliance assistance or burden of compliance measures that you are not provided the adequate compliance assistance and resources that is an area in which we focus attention.

At the office of the National Ombudsman, our job is to help entrepreneurs keep more of your hard earned money in your pocket to decide what to do with it. Unfair regulations and the unfair enforcement of regulations cost small business owners here in Milwaukee and across the state, two of the most precious commodities and of course that is your time and your money. Our office has saved according to an economic impact study; our office has saved upward to \$229 million in regulatory related costs for small business. So that is real results, those numbers are making a difference for small businesses. According to SBA's office of efficacy, which this man has done a terrific job advocating for this region and if you haven't met him, do so afterwards and make sure you have his card. But his boss, Tom Sullivan, who has been appointed by the President and confirmed by the Senate is independent and doing a terrific job as an advocate for small business. And if you look at the numbers and what regulations are costing you can understand why you need that advocate. I just estimated that the cost for small business, let's say 20 employees or less, cost \$7,647 per year per employee compared to perhaps a larger counterpart of 500 employees or more. And that is often the case for small, the very small firms that pay four and a half times as much to comply with environmental regulations, 67% more than their larger counterparts towards tax compliance. And it is often because small business owners can't retain teams of super lobbyists, consultants and accountants to represent their case and their issues. And certainly the three issues that we hear most about across the country, regulations, healthcare costs and taxes are a concern for small businesses. So the money that you spend on unnecessary enforcement regulations in burdensome areas within sometimes the federal structure can be better used to provide health coverage to your employees, to grow the infrastructure in business, expand a product line, put more trucks on the road, hire more people, and create more jobs. So, in our office, we from this hearing and from the comments that we receive today and when I go back to Washington that is going to work against on your issues, on your case. And I act as a troubleshooter, by liaising with federal agencies -- any federal agency we are based with the SBA, but it is any agency with which you may have a concern, we can assist your small business. And we seek a response, a high-level, third-party review of your issues. So if you have a concern regarding a particular inspector, regarding a particular office of the federal government, your issue will not go to them, it will go to a senior office to review the fairness of that action. Not only do we assist small businesses, but also non-profit organizations and small government entities of populations

50,000 or less. As I mentioned the office of advocacy, we deal with regulations on the back-end, once you have enforcement. They are the advocate on the front-end and continually [unintelligible] existing regulation. We are enforcement and they deal with proposed rules and formulated rules for small business.

For a little history, congress created the office of the National Ombudsman and it was 10 years ago, in 1996 -- that was about now 11 years ago, it was created for the Small Business Regulatory Enforcement/Fairness Act and created ten regional regulatory fairness boards which Jon, Keith and of course, Steve are a part of. And with that we hold approximately 20 round tables and hearings around the country every year. One important aspect of my job is accountability and that is accountability to the congress. We report annually, I have a final report on my desk that will soon be sent to congress rating federal agencies A to F, on their responsiveness to small business concerns. The areas in which we rate are also compliance assistance, does that federal agency have non-retaliation policies in place and also are they being responsive in providing a quality of response, or are they just sending you a form responses or are they truly delving into your issue or concern. These are all important issues that federal agencies, I'll tell you are responsive and federal agencies are doing a better job to being responsive to small businesses. Is there more to be done? Sure there is and we are working closely with congress with this administration to make that happen. I'm energized by the success we have been able to realize in this state and other states. And I will tell you that I always say that I can't promise, tell you what I can do, but I certainly can't promise you 100% positive resolution to every issue that comes to our attention. What someone may perceive to be a burdensome issue may not be on a larger scale of other small busiensses, but it may be in your perception a concern. We don't guarantee 100% positive resolution, but we do guarantee 100% of our effort. And even on the line back in Washington, we have a team at our office of the National Ombudsmen who are listening now and certainly, who will be working on your issues.

I want to give you a few examples to show you the variety of regulatory enforcement concerns we have been able to assist small businesses. In Seattle, there were three groceries that testified at a regulatory fairness hearing that the USDA had disqualified them from the food stamp program alleging fraud. Well, the small business owners said, they did not commit fraud. And further, were concerned with the allegations and what that was going to mean to the customers of that area that certainly, needed that type of resource to put food on the table. We went to the USDA and we expressed these concerns and issues to give that another look and confirm, was there fraud or was this a mistake. That resulted in a reversal of that decision. That meant a lot to these business owners and it meant a lot to that community. In

Maine, there was a small mine operator that testified that this mine, safety and health administration reports were filed with the regional office on time, however, the regional office denied receipt of those documents and they were fined. With that I will tell you, of course, we had the Department of Labor representative here Dominick is doing a terrific job for small business over there. They worked on this issue, not only did the mine safety and health administration with DOL, return that issue, the assistant secretary personally called that small business to apologize. Now, I did see a few pumps around here as I was driving in last evening, so this was actually just down the road, but there was a small brew pub in Illinois that had a dispute with the Department of Labor's wage and hour division. And it was a dispute with the Brew Master should be hourly or salary. Well, those are business decisions for that local business with his employ. That business owner spent over \$7,000 dealing with this issue with wage and hour division. They contacted our office and we were able to help them seek an equitable settlement. In Georgia, there was a small shipping company that was fined \$2,000 by the U.S. Customs for an alleged violation of an import/export regulation. That business contacted our office and we were able to work closely with the U.S. Custom Border Protection to resolve that issue and the fine was returned due to an inverted error by the agency. There is a myriad of issues I could go on and on about the success story and it really makes me feel good everyday to go to work and know it is rewarding that we are actually helping folks who are at their wits end of trying to navigate the bureaucracy of the federal government. And I can tell you, it may be an issue of trying to get a federal voice mail. I know our [unintelligible] at the congressional office probably appreciates that, because they are working hard on your behalf and they deal with the same issues as well.

So we work hard to try to get you to the right area that you need to be. We are doing more outreach. I encourage you if you are part of an association to let folks know that there is a National Ombudsman, that there is a regional Ombudsman, there is a state Ombudsman here to be helpful for you. I can't help folks if they don't know that we are here and obviously, we certainly want to provide that to you. There are brochures over there, we do have a toll-free 888 number, it is 888-REG-FARE and our web address is www.sba.gov/ombudsman. So with that just know that we are here to help navigate the rough seas of the federal bureaucracy and we want to begin, now turn it back over to the chairman for our official hearing and conference. Thank you all very much.

MR. BECHER: The next thing that I would like is if the representatives from the different federal agencies that are here to stand up and introduce themselves into the record. We will just go however you want to do it that is fine, just stand up and introduce your agency and your name please.

[Unintelligible - off mic]

MR. BECHER: Good anybody else. I want to thank all the representatives from all the different agencies and encouraged by some of the programs that --. Oh, we have someone on the phone too.

MR. MARK PALERMO: Yes, this is Mark Palermo, P-A-L-E-R-M-O, with United States Environmental Protection Agency in Chicago and I am available to address any questions or issues with respect to my agency.

MR. BECHER: Okay, thank you. Anyone else on the phone? Again, I want thank all the agencies for being here and again I am encouraged from what I am hearing there is a lot of programs for small businesses that didn't exist, especially when I was involved with the White House Conference 10 years ago, so I think that is an encouraging sign. Hopefully the small businesses can use those programs to help them.

With that, unless you have any other comments, Nick? Let's go ahead with the public testimony. The first one we have listed is Cascade Springs and SSS Group, Leni Siker. If you would like to come up here and we will show you where to sit down and then if you could talk loud so that we can make sure that we catch it we would appreciate that.

MS. LENI SIKER: Thank you again for the opportunity to be here. I really appreciate the [unintelligible - background noise]. I would like to share some challenges that my company has experienced trying to sell our product, which is bottled water with the federal government over the last [unintelligible]. My hope is that we will use the information to come back and help other small businesses.

As an individual, I have extensive experience in regard to small business issues from this perspective. First, as an owner of two small businesses for the last [unintelligible] years. Second as a former executive director for the [unintelligible] minority opportunity [unintelligible] for [unintelligible] years. In addition, I have been appointed to many [unintelligible] committees, such as the National Advisory Counsel for SBA, Governor of Wisconsin and various local task forces. This is something my business was recognized as one of the top three Asian American businesses in the United States by Wells Fargo and the U.S. SAM Asian American Chamber of Commerce. One of my companies, Cascade Springs, LLC is one of the very few 35 minority and women owned businesses that are a manufacturer of bottled water products. We have had success selling our bottled water to the Department of Homeland Security, Arizona Border Patrol, [unintelligible] Affairs, [unintelligible] as well as several other small and mid-sized and commercial companies. We appreciate their support drinking this water.

We have experienced two major reoccurring problems as we fix our additional standard government contracts, something that which will [unintelligible] over and over and over. The problems are contract bottling and also getting access to the petition [unintelligible].

I would like to talk first about the contract bottling. More and more government agencies are bonding their purchases on bottled water products. This makes it extremely difficult for us to [unintelligible] to market entry. Especially the against small businesses reduces competition, it increases prices and [unintelligible] public policy BAR 19 [phonetic] that is supposed to encourage small business usage. Earlier this year we experienced this situation with the U.S. Postal Service bottled water prequalification process. The USDS issued a prequalification package for [unintelligible] in ten regions, with probation for multiple contract award periods. However, the minimum three regions requirement was so large the product value and territory only large bottle companies can meet the requirements. [Unintelligible] expressed our concern about the unfairness and the impact on small businesses but did not work [unintelligible] because they said they exempt from the BAR. We understand SBA also expressed the note of concern but the FDA was also [unintelligible]. [Unintelligible], the real goal was to have one single national water supplier contract and to keep away small venders who supposedly sell water from the back of their pickup truck. [Unintelligible] does not sell our bottled water from the back of our pickup truck. Because of the excessive scope of services and territories, less than ten companies in the whole United States responded out of 375 models that belong to the International Bottled Water Association. We do not understand the USDS action when at least 20% of their revenue comes from minority businesses and large numbers of their customers are small businesses.

To date, despite our efforts over the six month period to gain access for a second tier subcontract opportunity, which USDS said it was not their responsibility and as a result Cascade Springs still have not heard from the two large [unintelligible] that they have selected.

The second issue that I want to talk about is access. We are having trouble reaching the decision makers. For example, our research of the federal procurement data system showed FEMA is the major buyer of the bottled water products. We also tried to get information about subcontract opportunities with FEMA major prime bottled water supplier, who boasts of a \$75 million annually in federal government sales, but there are not FBTS records of them. Our effort despite repeated attempts for over a one year period with the [unintelligible] we can not get a response from them regarding the referral to prime that were promised in our meeting and correspondence. And again, [unintelligible] is one of the few manufacturers who bottle water product [unintelligible]. Despite the BAR requirements to use small business subcontractors will contract

for over \$500,000, we have been unsuccessful in getting access to the prime suppliers. The lack of access is systematically excluding small businesses from participating in the federal bottled water market.

[Unintelligible] time are also using [unintelligible] out of town [unintelligible] 8(a), SDB and WDB goals and also local [unintelligible]. [Unintelligible] contract bottling the over result if higher prices, fewer product options, most importantly, non-compliance with the BAR and [unintelligible] requirements.

The above two major problems facing my company and other small businesses will continue to get worse, unless there are some immediate positive action taken. Below are some of the actions that I would like the SBA to take on my behalf by providing me with the following. I have five, is that okay?

Number one, I would like to see a copy of the Minority Women and SDB subcontracting plans from FEMA that were promised to me, FEMA and also the Department of Interior and also the Department of Defense. Those I have identified as three major buyers for my products. And also I would like to see a copy of a contract of awards data for ST water for the emergency water I found that out that they are the ones that have a \$75 million contract. To facilitate a meeting within my company and contractor officer [unintelligible], OSBBU, FEMA, Department of Interior and the Department of Defense unless FDA gets this one I think I will just continually be difficult to [unintelligible]. Number four, facilitate a meeting with my company and the United States Postal Services currently over 36,000 postal services are serviced by small bottlers like mine and then it is about to get wiped out, with one single national bottled water contract.

Number five, the last one, facilitate a meeting between my company and the Great Lakes Large Mid-West Prime currently has federal government contracts with total value of over \$500,000. I'm pretty sure they would like to get to know me and get our product [unintelligible].

Again, I would like to thank the SBA for the opportunity to testify today in an effort to make the federal government more effective for small businesses like mine. Thank you [unintelligible]. Any questions?

MR. BECHER: Any questions? What was the number of small bottlers that you mentioned?

MS. SIKER: Three hundred and seventy-five. I got that from the International Bottled Water Association which I am a very active member. But there are other small bottlers not belonging. I think there are a lot of them.

MR. BECHER: Okay. Thank you for your comments.

MS. SIKER: Is that it?

MR. BECHER: Yes. Thank you. Thank you very much. The next business listed is Hawk Construction, Ron Spoerl. Thank you, Ron.

MR. RON SPOERL: Thank you for your time. I was made aware of this meeting with the help of Eric and SBA. I am here to share with you a little bit of what our company does and what we think will help [unintelligible]. Hawk Construction is a company Native American owned, we are primarily a minority DBE company. We have both fully [unintelligible], one of the things that we struggle with is one of the things that we do is such a niche in the construction industry. Hawk Construction began in 2003 and we offer a unique service again to the construction industry by using water and vacuum. Hawk specializes in hydro-excavation when underground utilities are involved with any federal or state projects. This process is huge up in Canada and then has just come south involving several different states. Companies like us are [unintelligible] around the country.

These utilities include fiber optics, phone, gas, electric, water, [unintelligible], sewer, cable and sanitary. This is a method that is often termed as safe dig method. The reason for this is because it adds increased value to any project [unintelligible - back ground noise]. [Unintelligible] such as safety, design and productivity. What is the value of a person's life when working around a gas or electric or any utility in the ground. Using the [unintelligible - background noise] today is not the answer. More and more utilities [unintelligible] the last four years than on the [unintelligible]. The infrastructure of the entire underground is becoming manta or [unintelligible] utilities. It is important that starting today we set standards in the construction field and not dig blindly through the ground. Safety to the construction workers and to the public is very important. This is why hydro-excavation is safe method using water and vacuum to excavate OKIE utilities in the ground is an investment. Many people either have a warped or misinformed about the exact location of utilities near by. For example, the explosions that happened in [unintelligible], County in 2006 where a family from Michigan, a father and mother, parents of three children were killed. We need to use safety methods such as hydro-excavation when working or designing around utilities. Hydro-excavation should be used when engineers design state and federal projects. As the federal highway administration study has shown that OKIE utilities during the first stage or the design stage, we as tax payers can save on average \$4.50 per every dollar spent on subsurface engineering, locating utilities in the ground and design around them instead of through them. And that was quantified from a total of 71 projects. These projects have a combined value in excess of \$1 billion, per the January 2000 study from the Federal and Highway Administration in a Purdue University study.

Often looking for and we need a line item to specifically recognize the need to safely locate each utility that is within the path of any design or redesign state or federal project that involve any utilities. If engineers can design around all the utilities and give the contractors all the information correctly upfront, the cost savings will be no less than change orders during the phase of construction. Therefore, in order savings in final and total cost of the project will [unintelligible]. To take away the guess work of excavation of all utilities and a plus that is added when working around everything that is underground.

The increased productivity will show the total cost in [unintelligible] projects in additional savings. Contracts will have the information needed and will be held accountable to get the project done in time and safely manner. Savings can also possible come from also from the contractor who uses the safety method, thus rich for the insurance company will possibly show savings to the bottom line as well. Added a line item that uses a safety method, such as hydro-excavation will increase productivity for any who are involved.

In conclusion, Hawk Construction has set the standards for the state of Wisconsin and beyond for using a safety method called hydro-excavation. Hawk is also the largest Native American backed company in the Midwest. Hawk is looking for your help to create a line item that will not only help create jobs but will create safety in all projects involving underground utilities when working with the public. Hawk as well, will continue to educate our government, our principalities and construction company, utility companies, engineering firms about a more safe, economical way to excavate dirt when working around utilities [unintelligible]. Thank you very much.

MR. BECHER: Any comments or questions?

MR. OWENS: Let me ask, what has been your experience when you engage or educate federal agencies in particular, what has been your experience, reaction or response?

MR. SPOERL: Not in the budget. And after I share with them the cost savings on projects that we have done, we can actually save substantial savings. We can locate utilities and then we design around them. It is only in projects that a change order has come down around project are added because of the unknown elevation of a utilities. Not so much the depth but the elevation. So what Hawk is doing is we are locating utilities where business occurs to [unintelligible], GPS and now [unintelligible] engineering, we are now going to create a 3D environmental world to compare to again, design around utilities that instead of through them. When we design through them then that are where the change orders will come, contractors stop [unintelligible]. We are trying to eliminate that. We have incorporated a process [unintelligible] and plan for a project to take all the guess work out. Now they are come down to the contractor to get that work done in

[unintelligible]. In the past it has had to do when what were told [unintelligible] it is their problem. What they do is add dollars and guess work; we don't know where the utilities are. We don't have all of the information. So you are going to increase the project. So we can incorporate the process again at the front-end give the contact all the information now [unintelligible], the risk minimizes. [Unintelligible].

MR. BECHER: Thank you.

MR. OWENS: For my benefit, Ron, when you say a line item, what do you mean that?

MR. SPROEL: What I mean by that is that there isn't -- for Hawk for a process like that there isn't anything we can actually we go and bid for contracts or anything like that. When we talk to our customers saying this is a process of how you can incorporate a new system. And a lot of times I get from contractors that use us and another contractor doesn't. Well now they say it comes down to product price and not the value to get the project done. And so a lot of times the doors just shut down. They can see the increase productivity when they use us, but not -- everybody is worried about the cost of getting that project complete [unintelligible]. A lot of times a department, a state department [unintelligible] a lot of them [unintelligible]. I can tell the change is coming by getting to the right people and moving the process forward and more to the design and field construction, eventually it will come. But I am there to make aware and ask for your help for the right person to help us get that line up so I can actually go after projects and I'll go out and design them. I have seen projects out there, Homeland Security towers that are being put up, underground facilities, but there isn't anything listed specifically listed in safety method hydro-excavation. All the utilities that are underground they are there and we don't want to damage them, damage to fiber optics is a lot of money anyway, so our goal is to locate them and work around them.

MR. OWENS: Okay, thank you. I will say, while you issue is not an expressed regulatory enforcement concern, it is one that is important to your business and the small business community. So were appropriate we can engage federal agencies and see where there if further dialogue, so thank you. I do want to say for the benefit of the folks testifying today, please know when we go back to Washington we will be working on your issue with the federal agencies in particular. So the response may not be a completed response from that federal agency within 15 to 30 days, but we are working within the next week with that federal agency on your concerns. So just that you are aware. Thank you.

MR. BECHER: Thanks, Ron. Okay, we have Dakota InterTek, Wenbin Yuan. Shall we do the U.S. Army first?

MR. WENBIN YUAN: Thank you very much for the

opportunity. I never thought that it even existed for so many years. I have never had that honor [unintelligible]. We have been in business, close to [unintelligible]. In the beginning three or four years we only [unintelligible] private [unintelligible]. In the past seven, eight or maybe the past eight years we have had federal contracts. We began in eight years ago. And then I realized what you have in the federal government since you are client you can not afford to have [unintelligible], they are [unintelligible]. And we were growing, growing until we got to the 8(a) grant, actually our rapid growth profit growth is not easy and there are reasons for this. And there are a lot of reasons about our 8(a) are not continued. I think I can name several here and it is for that two perfect examples of [unintelligible].

Number one, I can imagine, there are four items that I think are important. Number one is budget. [Unintelligible] when we contract for and begin with our 8(a) [unintelligible] source and when you contact them they already have a budget. That budget is sometimes very [unintelligible]. It usually goes to the contract when they have a budget, sometimes it is a creative job. In fact, last quarter we were doing or finishing up a deal with the VA Hospital. We get a lot of VA Hospital [unintelligible] renovations, designing or building projects. And we have done some MRI, CT and facility. If you have design what to do that is okay, we have already got the VA Milwaukee Hospital entire [unintelligible] site for the next three years and one of three years AE contract. We are doing the designing; we are doing that so far. When we building too a lot of patient. But anyway, when they give you a design field contract and they have a budget there, that budget is not always reliability, because we don't have the designs. Okay you have me a budget. When we have a budget hold by the [unintelligible] department, we have two choices. Number one we contract and then we contact [unintelligible] their budgets. But down the road there are a lot of issues for the deal to come, we realize the budget is not realistic, but by then it is too late.

That comes to my next item, is at ambiguity. When you have a budget, you have to work out the job and then there is ambiguity. When there is ambiguity on the project inspector, whoever contacts the [unintelligible] again, [unintelligible] contract. When you work with federal government the contract is always vested by the federal government. But when there is ambiguity there is always judgment against contractors. It is the reverse side on the [unintelligible]. And there is always -- you go through the [unintelligible] training by Army Corp of Engineers, the Navy or whoever who provides the [unintelligible] training, they will tell you the federal government has the final say. I mean, you are obviously a certain pawn as they have the final say. And they usually, they will [unintelligible]. [Unintelligible] Army [unintelligible] projects, the division told us this landfill is going to use one foot of topsoil or one foot of standard

topsoil for combustion [unintelligible], three inches. But based on their calculations, the total square footage is going to not cover the landfill, not anything of that latitude. Now the [unintelligible] landfill [unintelligible] the federal contractor, contract officer assigned their contractor another contractor to review the project and they said it was okay. And we finished the job and we feel very happy with the job that we had and everything was done. Then the project officer himself came in later and said, no, no, no, you need to put more soil [unintelligible]. They heard that that did not cover the top soil, but it was [unintelligible], although the contractor didn't see it, you had to put it in. We are very near the project and he said, it doesn't matter, he said the contract was final [unintelligible]. But then you go through the calculations and all based on the last [unintelligible], not on site. And the calculations [unintelligible], the calculations were exactly 52 to the calculator not [unintelligible]. We had to spend a lot of money to pay [unintelligible], for paying additional top soil, for paying for [unintelligible] for additional meeting for [unintelligible]. And we did want to end up arguing too hard that is my third part.

That is the total result of this dispute that resulted from it. When you have a dispute with the federal government, they hold two things. They hold your [unintelligible]. They also hold your 10%, the longer the job the more they hold. Supposedly you have a [unintelligible], why do you need a percentage, but they have a percentage of [unintelligible]. And the 10% of the [unintelligible] is usually all the money the gross profit that we could ever make. Usually less than that. And then we have a dilemma, we fight with them we will not get the 10% back, we don't have [unintelligible]. And then they leave for [unintelligible]. But if we don't fight with them, there is a reason whatever they throw at us, we accept additional work, finish whatever the outcome, suffer the [unintelligible]. Luckily our company has a 13 year history with the federal government and we have only one [unintelligible], which is the case [unintelligible] project.

So it's connected you have ambiguity and you have a dispute and then at the dispute it will be okay, you want to drag it out for a fight, good. I'm not going to pay that 10%. But in that case it was about \$50,000, [unintelligible]. Whatever we are finished 10% and the pay with work we are working on yet, we think it is finished but they don't think it is finished then we're talking about 10 to 15% money withhold by the federal government. If you are in a fight you might be in a fight for a year or two and you don't see the money, we can't afford to fight. We had to move on. And I'm so glad that we have [unintelligible], I'm trying to talk about general case and we have two cases to talk about these.

And then the last thing I want to talk about is the [unintelligible]. You build a building and you have a new one and they move in and then realize that [unintelligible] there are some places that

are not clear or discolored [unintelligible]. They have [unintelligible] already, they have already moved in and you have to change the handle somewhere and have to scrape the paint on glass a couple of times. Now the Army pays for portable [unintelligible] items of [unintelligible]. That means they will not pay us, we finish and they will give us the additional [unintelligible]. Because we don't have the plantation [unintelligible] in half, but the plantation was planted in the wrong field it can not grow. Whoever does the job in the wrong [unintelligible], we did it anyway, we stopped the additional damage, the next year we have to go back and plant it again. And then now we will do that again, because the old house it's the wrong [unintelligible] by the government to do that. Because otherwise [unintelligible] damages. So, I would think this should be following the model, makeup and the contents. You have been the initial 50%, you have a residual of 5% and then after you finish they leave this [unintelligible] to refinish [unintelligible]. Because you have [unintelligible], probably go [unintelligible] work. If you have work you have [unintelligible], you probably have to go back and fix your problem, because that is your work. But to hold a lot of the percentage along with the item in dispute is killing a lot of businesses. I don't know how much you can help, but we really have suffered a lot on that project. And the VA job we would like -- I kept quiet to dispute with the federal government [unintelligible]. Everything was [unintelligible], everything was done in excellent way, they do it again they said we have to wait 150 days of getting us a contract to design or procure all the equipment to do building and had everything done and they pulled in. The job was finished in October and now we are still trying to [unintelligible] money here and do not see the money. So it is a very painful problem. And if we did that, the VA job [unintelligible] VA project we did that job because the federal government gave us a budget but [unintelligible]. Or they really don't know how much it really costs, but they haven't [unintelligible]. And then we realize that the federal government is also renting a [unintelligible] dollar a month rental unit. We [unintelligible] with the negotiation process, we hit all of the details, we stopped [unintelligible] issue, the federal government will be wasting about [unintelligible] in a month. So we decided that some of the creative items we stopped, we waited to get [unintelligible] items approved. For the later ones we want to speed up so the federal government has freed those hundreds of dollars. And there are items that we have verbal dispute [unintelligible] that we haven't considered as a [unintelligible]. And they said yes, we will consider that, but yet keep on going. We informed the federal government, we keep on going and they didn't say they would approve it, they didn't say they would disapprove, but we know we have to do it. We finished all the job and they come back and then they say they want to look at a certain item or then [unintelligible]. Now we don't get the money paid.

So I would repute that, the budget can be written wrong and if

you got into it or talk to my federal 8(a) [unintelligible]. If you get into it talk to budget, you could be trapped into it. And we have done 8(a) jobs like class A jobs, which the federal job estimate was \$1.35 million to [unintelligible] dollars. And we did it for \$800, we saved \$500, so I became [unintelligible] it was 50% too high. That happened. And sometimes they have equipment percent too low. And so when there is ambiguity we should have [unintelligible] or the chance to use private sector that says you [unintelligible] the job in our favor, but that is not the case.

I guess I'm taking too much time already, I would like to [unintelligible].

MR. BECHER: We could do another five minutes for you too, that's okay.

MR. YUAN: [Unintelligible - off mic]

MR. MARK MOBLEY: My name is Mark Mobley, I am a project manager with Dakota and have been helping Dakota with one of the projects that we did for the Veteran's Administration. And we have done a construction project that Wenbin was talking about; we completed the contract on time. And we were very happy with the quality of work the VA was as well, but the price of the work in the end was greater than what we had known of course. Prior to my coming on board with Dakota that the negotiations occurred as I have reviewed the case, the budget process was dictated by the VA. They said here is the budget, do it. And they alternative was that we would be in default of the contract that was not an acceptable alternative for us. So to move forward we tried to economize and find ways to get the work done. We completed the project and did excellent. We tried to negotiate after the fact. We tried to contact the contracting officer to try to allow us to go through the alternative dispute resolution process allowed in the contract. That was ultimately rejected. It was initially agreed to, but then ultimately rejected. We tried -- we had agreed to submit to a DCAA audit of our project, ultimately that was rejected as well. So we saved the government money, but our concerns were treated as if they were not legitimate concerns. We heard essentially, the message to bad, so sad, you signed the contract and so what are you going to do.

So that was the project and then we were proceeding to over \$200,000 additional on the contract. The initial amount of \$530,000, so a significant increase. We are seeking to be reimbursed for the price actual work, plus the allowed work up and we will spin to an audit to show that we did expend money. So that is our case on going on the VA contract.

MR. BECHER: Any questions on the VA project? Comments, concerns? A clarification for me, you bid on a contract for a certain amount, you accepted it and there were specifications of what you were supposed to do. Did that change then?

MR. MOBLEY: It was a design, build project.

MR. YUAN: It was a one page specification [unintelligible].

MR. BECHER: One page, okay and then they add more things and it seems like from what your original intent becomes ten pages.

MR. MOBLEY: The requirements were -- there were requirements that were added after the initial negotiations.

MR. BECHER: With no additional money.

MR. MOBLEY: It started out as a project where the concept was, we are going to build a modular unit MRI, trailer MRI unit that would be next to the hospital. Then they said, well you know you need to actually meet all of the VA guidelines and that means that you have infection control and you have all the various guidelines that apply to a VA Hospital facility. And this would be in addition to the hospital deal, no amounts for additional costs.

MR. BECHER: What is the process in the Department of Defense, or Army as far as disputing that?

MR. MOBLEY: They do allow for alternative dispute resolution. And we are taking steps now; we are in the process of going back and forth with the VA. We have spun it now to something that has been called a CMR or Contract Modification [unintelligible] and it goes aback and forth about six times. Answering questions and comments and it has taken a long time and now we are hearing from our major subcontractors get -- we have three major subcontractors left paid all of the minor subcontractors their due. But the major subcontractors are being cooperative with us, but they are expecting to be paid as well. And they are, like we are, tired of waiting and [unintelligible] have their reimbursement very soon.

MR. BECHER: Okay, thank you. Other comments or questions. Okay, thank you very much. Okay, the last one that is actually officially listed and then we will open it up -- [unintelligible].

MS. JUDY FASSBENDER: [Unintelligible].

MR. BECHER: Sure, I'm sorry.

MS. FASSBENDER: I'm Judy Fassbender and I work with Dakota. I guess the concerns I wanted to express related to the work we did with the evolution landfill at Fort McCoy primarily it was some personnel issues and a lack of ability to find the right people to go to. There were some additions to the [unintelligible] Army that resulted in change orders. The change orders were prefaced with significant delays, such that when we were finally authorized to do the work at the end of the construction season, we were quite busy at that time of the year and did the best that we could to get out there and get that work done. We were given the final inspection by a subcontractor to the Army, they said we were done. We figured we were on our way and

then three weeks later we received notification from the contract specialists that the Army doesn't [unintelligible] standing such [unintelligible] that needed to be complete. At that point we were already accruing the [unintelligible] damages. We had understood that we were complete and had not [unintelligible]. One of the issues was the one we were talking about that the spec was unclear. We had a very clear quantity for what type of materials were needed for the cap and now just [unintelligible] for the actual landfill itself, the landfill [unintelligible]. The contract specialist indicated that we also had [unintelligible], which was significantly more material that was not included in our specs. At that point we didn't want to do that, we were already [unintelligible] crews and liquidated damages and felt like we would do what we could do to resolve the liquidated damages issue. We had tried on multiple occasions to reach the small business lead at Fort McCoy to take a look at and we don't need [unintelligible] we need help. We never got a call returned. Finally I talked to Joe and Joe said, that small business guy is gone. I had left Joe Rosner here and I left multiple messages, sent emails and never got a response indicating that the guy was gone, but we didn't know where else to go. But Joe put us on to someone else at the base that worked as the small business specialist, I called that person and that person was the contract specialists [unintelligible]. So anything that contract specialist said was what went. We didn't have anywhere else to go.

So at this point, we were forced to heed at the last week of November of last year and told them we waited till [unintelligible] because we did not want to [unintelligible]. But he did not pay when [unintelligible] required, we were called back in the first week of March and he said, because there were erosion issues that [unintelligible]. He said couldn't we wait until the growing season, this is not a good time and he said, no you need to go out there and seed now. Now, this week we were out there again, because we are addressing the weeds, because we were not allowed to seed in a normal Wisconsin season, we have a weed issue. And to the extent of our [unintelligible] warranty is considered warranty work for the Army we are back out there for a certain time with our recommendation that we should hold off. And then we feel that the initial seeding, if the change orders had come through in a reasonable timeframe it would not be an issue, we would have been seeding when there was time for [unintelligible]. Thanks.

MR. BECHER: Thank you very much. Okay. Interfreight Transport Systems, Sarah Syers. Did I pronounce that right? Thank you.

MS. SARAH SYERS: Good morning. I [unintelligible] contract [unintelligible]. I am here today to request the USDA, my final pleading to administer [unintelligible] review the monetary claims marked against my company [unintelligible]. These claims consist of

USDA product damage that has [unintelligible]. I have previously argued the fairness of that and have been unsuccessful for the last three years. The chase to recover these claims has cost me almost \$180,000 in legal fees. Last year I hired the prestigious firm [unintelligible]. The chase to recover these claims, I can no longer afford the legal bills to continue this chase. The legal action has gone on for over two years and the case is now [unintelligible]. The insurance companies involved in this legal action attempted to depose the USDA who refused to testify about the damages for certain claims and other [unintelligible] information. The USDA's legal counsel read a motion to quash that the insurance attempted to enforce a state order subpoena. I have appealed the USDA contracting officer's position with the USDA board of appeals to no avail. The presiding board judge would not allow me to conduct the discovery motion, such as motion to admission or motion for derogatory from the agency from the alleged claim.

I am truly like a rooster guarding the hen house. The USDA board of appeals concluded that we were contractually liable for the damages regarding a leaky roof that cause damages. Meaning, they didn't have anyone else to go after. My company attempted to bid on a Department of Justice business and used a USDA reference as having doing business with the USDA for the last three years. The USDA reference informed the Department of Justice that we had infestation problems storing the food products when other facilities had the same problem. And she stated we would not get any more contracts from them. She also stated that our performance was well, with technical excellence. The three page document to the justice as a form of intimidation, [unintelligible]. This action exposed the USDA for libel, breach of good faith and fair dealings.

My main argument which I would like this board to present to the USDA agency is one, the USDA declare the entire remaining [unintelligible] facility which was non-fat dry milk, to be used as cattle feed. The USDA declared the non-fat dry milk to be used as cattle feed to be denatured and that is render it [unintelligible]. Once you denature the food product it is no good for human consumption. The USDA did not suffer any damages to ship the remaining product to the cattle feed. They just had to fill out all the extra paperwork. The USDA verbally instructed us not to ship any damages to the cattle feed program and to dispose of it. Anybody in this room, knowing what dispose means is to throw it out. They didn't tell you to salvage it, they didn't try to tell you or attempt to give you money for it. They simply said dispose of it. USDA asserts that we should have moved the products to a different location, meaning to another approved facility. We have 6 million pounds of product at that time which means, 600 truck loads. The cost of the move would have exceeded the claims of \$137,000 and the USDA would have been contractually liable for the move if we had chosen to do that. IPS performed 99.5% accuracy rate

of the 30 billion pounds we stored at our facility.

We also have regular USDA inspectors that inspected the product, every six month interview. If we didn't discover the damage, they didn't discover the damage who was supposed to discover the damage? This case for the last two years involving the USDA, landlords, and insurance company has emotionally and financially drained my company to a point of insolvency. We pleaded with the finance department to reduce this claim and they responded with an interest only reduction, immediately after the USDA board review. And the USDA board had a [unintelligible] on 2007 [unintelligible] board of contractor [unintelligible].

They also claim that the claims would be turned over to the Department of Treasury for further collection. Once these claims are in the Treasury Department they will offset any government business payments, which we as a company is here to bid on any federal contracts, because they will get offset [unintelligible]. In light of the finance USDA denial to reduce these claims to cattle feed, they charged the cattle feed farmers a penny a pound and yet charged us \$1.00 a pound, almost 100%. In light of the denial, we will feel free to settle the state civil action without prejudice and reserve our right to move the USDA claim to the federal court and assign those rights to their insurers.

We are asking in the strongest terms for the USDA to reconsider. There is not point of filing claims that the USDA may not be able to collect, if the company continues to chase after these claims will drive us out of business. I have previously testified in a hearing such as this in 2006, however, you were not involved, although your signature was here. I believe you were appointed in March, or somebody snagged your signature. And they responded with a [unintelligible] response. They agency we are dealing with now is a government corporation, called the CCC credit commodity corporation. It is a government corporation under the charter act of 1939. But it is overseen by the USDA agency, so this corporation hides itself under the rules of a corporation or private corporation, but yet enjoys the benefits of a government agency. So I'm stressing to you now, will you take this back to Washington, you will be faced with corporate responses, not federal responses.

MR. BECHER: Specifically, what was the response? Was it the response of the USDA you received?

MS. SYERS: Yes. From the USDA, not from the CCC itself.

MR. BECHER: I will enclose a copy of the first response and it is [unintelligible] responses. I am also enclosing a copy of other exhibits through my appeal, the subpoena that the insurance attorney attempted to subpoena the USDA. When we had the insurance company involved the insurance company retained a [unintelligible] at

\$800 an hour. So you can see how we are going to continue cost, the legal bills are going to continue to mount with no end in sight. They love the work, so just assume the drive it into trial. They did win by vocation in state, meaning they refused to defend the landlords who are legally liable for damages on misrepresentation. So we have two trials, one trial on coverage and the second trial on trying to get the money from the landlords who ultimately [unintelligible] bankruptcy anyway. So all I am going to have is a 20-year old IOU. And I am also enclosing, meetings and briefs filed with this board. This is just the pertinent pages, there are about 1,500 pages. I am trying to spare you all the documentation on this. And it is about a five foot stack of documentation, which will you need [unintelligible] advocate on our behalf.

MR. BECHER: I have your comment, will you also include your written statement.

MS. SYERS: I was asked by Hosea, hello Hosea, to polish up my written statement when I come to the present [unintelligible].

MR. BECHER: Well, the statement that you just read, do you have that?

MS. SYERS: [Unintelligible]

MR. BECHER: Well, I do have a comment and I want to say a comment for official comment, the statement that you issued as additional information that you provided here, so that will be helpful for us to have as well.

MS. SYERS: I did provide you with it [unintelligible].

MR. BECHER: Oh she has it, fabulous; you have a copy of it. Thank you. Any questions, comments, additional. Thank you very much. No other comments.

Okay, that is all of the ones listed. Are there any other parties here that have additional concerns or issues that they want to bring up?

I have one here, is it Hawk Construction? He already has testified, never mind. Anybody on the phone or speaker system or online that wants to testify?

Anybody else that wants to testify here, any other concerns or issues? Hearing none, I will close the hearing. Any other comments, Nick?

Again, thank you all for attending today, certainly know that we are here to help you and assist you and we certainly look forward to following up on the comments that were issued today. Thank you all.

[END TRANSCRIPT]